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**DATE: February 4, 2009**

**Your Ref:**

**Our Ref: 11788-26 MIS/cp OFFICE OF PETITIONS**

TO:	FAX #	PHONE #
USPTO Mail Stop Missing Parts	571-273-8300	

**Total Number of Pages (Including This Page): 5**

**FROM: Michael I. Stewart/ Sim & McBurney, Toronto**

**COMMENTS:**

**Please see attached.**

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PTO/SB/21 (04-07)

Approved for use through 09/30/2007. OMB 0551-0031  
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number		
	Filing Date		
	First Named Inventor	Madgy Younes	
	Art Unit	3771	
	Examiner Name	Demille, Danton D.	
Total Number of Pages in This Submission	4	Attorney Docket Number	11788-26 MIS

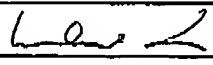
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ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Letter
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Sim & McBurney		
Signature			
Printed name	Michael I. Stewart		
Date	February 2, 2009	Reg. No.	24,973

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Michael I. Stewart	Date	February 2, 2009

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL For FY 2009

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 545.00

## Complete if Known

Application Number  
Filing Date  
First Named Inventor Magdy Younes  
Examiner Name Demille, Danton D.  
Art Unit 3771  
Attorney Docket No. 11788-26 MIS

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## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):

☒ Deposit Account Deposit Account Number: 192253 Deposit Account Name: Sim & McBurney

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	330	165	540	270	220	110	
Design	220	110	100	50	140	70	
Plant	220	110	330	165	170	85	
Reissue	330	165	540	270	650	325	
Provisional	220	110	0	0	0	0	

## 2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	52	26
Each independent claim over 3 (including Reissues)	220	110
Multiple dependent claims	390	195

Total Claims Extra Claims Fee (\$)

- 20 or HP = x = 0

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims Extra Claims Fee (\$)

- 3 or HP = x =

HP = highest number of independent claims paid for, if greater than 3.

## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$270 (\$135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$)

- 100 = / 50 = (round up to a whole number) x =

## 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Corrective payment-late entity

Fees Paid (\$)

\$ 545.00

## SUBMITTED BY

Signature

Name (Print/Type) Michael I. Stewart

Registration No. 24,973  
(Attorney/Agent)

Telephone 416-849-8400

Date February 2, 2009

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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\*Professional Engineer

February 2, 2009

**Via Facsimile 571-273-6500**The Commissioner of Patents  
**Missing Parts**  
United States Patent & Trademark Office  
P. O. Box 1450  
Alexandria, Virginia 22313-1450  
U.S.A.

Dear Sir:

**Re: Divisional of 10/606,751**  
**Class/Subclass of the parent: 128/204.210**  
**Applicant: MAGDY YOUNES**  
**Title: METHOD AND DEVICE FOR MONITORING AND**  
**IMPROVING PATIENT-VENTILATOR INTERACTION**

The basic filing, search and examination fees were paid at the Small Entity rate at the time of filing of this application, namely December 31, 2008. The applicant is now a Large Entity and the Small Entity fee was paid in error.

Pursuant to CFR 1.28(c), enclosed is our deposit account payment of the difference between the large entity rate and the small entity rate. Pursuant to 37 CFR 1.28(c)(2)(ii), the following itemization is provided:

- (A) Type of Fee erroneously paid: Basic filing, search and examination fees
- (B) The Amount of Entity Fee actually paid and when:  
Fee: \$ 545.00 Date: December 31, 2008
- (C) The deficiency owed amount:  
Fee: \$ 545.00

02/09/2009 DALLEN 00000003 192253 10606751

01 FC:1461 545.00 DA

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(D) The total deficiency owed amount:

Fee: \$ 545.00

It is requested that the PTO confirm that the payment of the maintenance fee as a small entity is excused and that the deficiency payment has been accepted.

Respectfully submitted,

  
\_\_\_\_\_  
Michael I. Stewart  
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